

By decision dated May 22, 1992, OWCP's hearing representative found that appellant's emotional condition claim was timely filed, but that he had not established that he was an employee of the FBI, and thus a federal employee in accordance with section 8101(1)(B) of the Federal Employees' Compensation Act¹ (FECA).

On March 21, 2016 appellant alleged that he was an employee of the FBI at the time of his employment injury and asked that his claim be reopened. He submitted additional evidence.

In a letter dated April 19, 2016, OWCP informed appellant that the record of his claim had been destroyed and requested documents to recreate his claim file.

On December 24, 2016 appellant filed an incomplete notice of law enforcement officer's injury or occupational disease (Form CA-721a) under OWCP File No. xxxxxx070, alleging that he developed post-traumatic stress disorder (PTSD) due to an alleged May 21, 1984 employment incident. He provided a statement of even date and noted that he last worked for the SLCPD on February 3, 1986. Appellant noted that he had previously submitted medical evidence regarding his PTSD in OWCP File No. xxxxxx140.

In a January 27, 2017 development letter, OWCP requested additional factual information from appellant regarding his specific status as a law enforcement officer engaged in the apprehension of any person for the commission of a crime against the United States.

By decision dated April 13, 2017, in OWCP File No. xxxxxx070, OWCP denied appellant's claim finding that he had not established his injury occurred under circumstances involving 5 U.S.C. § 8191. On April 18, 2017 appellant requested an oral hearing before a representative of OWCP's Branch of Hearings and Review.

By decision dated February 2, 2018, OWCP's hearing representative set aside the April 13, 2017 decision and remanded for OWCP to determine if appellant's claim was timely filed in accordance with its procedures.²

By decision dated April 26, 2018, OWCP denied appellant's claim in OWCP File No. xxxxxx070 finding that it was untimely filed.

On December 31, 2018 appellant requested reconsideration of the April 26, 2018 decision.

By decision dated March 29, 2019, OWCP denied modification of the April 26, 2018 decision.

On April 23, 2019 appellant requested reconsideration of the May 22, 1992 decision.(RD

By decision dated August 15, 2019, in OWCP File No. xxxxxx140, OWCP reopened appellant's claim for consideration of the merits. It found that his claim was timely filed, and

¹ 5 U.S.C. § 8101 *et seq.*; § 8191.

² Federal (FECA) Procedure Manual, Part 2--Claims, *Non-Federal Law Enforcement Officers*, Chapter 4.0200.6 (September 1994).

determined that the December 21, 1984 deputation form established that appellant was a federal employee effective that date through June 30, 1985. OWCP further found that he had established compensable factors of employment including the December 1984 purchase of handguns and rifles from two indicted criminals, overwork, and interactions with armed subjects who were under the influence of narcotics or alcohol. It also found that events that occurred prior to his deputation on December 21, 1984 were not compensable as appellant was not a federal employee within the meaning of FECA prior to that date. OWCP denied that the additional factual events he alleged occurred in the performance of duty. It further found that none of the medical evidence submitted was sufficient to establish appellant's emotional condition claim.

On September 28, 2020 appellant requested reconsideration of the March 29, 2019 decision.

By decision dated December 23, 2020, OWCP denied appellant's request for reconsideration, finding that it was untimely filed and failed to demonstrate clear evidence of error.

The Board, having duly considered this matter, finds that these cases are not in posture for decision.

OWCP's procedures provide that cases should be administratively combined when correct adjudication of the issues depends on frequent cross-referencing between case files.³ For example, if a new injury case is reported for an employee who previously filed an injury claim for a similar condition or the same part of the body, doubling is required.⁴ In OWCP File Nos xxxxxx070 and xxxxxx140, appellant has alleged PTSD arising from the same employment events. For a full and fair adjudication, the cases must be remanded to OWCP to administratively combine OWCP File No. xxxxxx070, with OWCP File No. xxxxxx140, so it can consider all the evidence submitted in adjudicating appellant's PTSD claims. After the evidence in both claims has been combined, OWCP shall delete OWCP File No. xxxxxx070, as it is duplicative. OWCP shall then consider all of the evidence of record and issue a *de novo* decision on appellant's emotional condition claim in OWCP File No. xxxxxx140.

³ Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance and Management*, Chapter 2.400.8c (February 2000); *T.D.*, Docket No. 20-1119 (issued January 29, 2021); *R.R.*, Docket No. 19-0368 (issued November 26, 2019).

⁴ *Id.*; *M.B.*, Docket No. 20-1175 (issued December 31, 2020); *L.M.*, Docket No. 19-1490 (issued January 29, 2020).

IT IS HEREBY ORDERED THAT the August 15, 2019 and December 23, 2020 decisions of the Office of Workers' Compensation Programs are set aside and the cases are remanded for further proceedings consistent with this order of the Board.

Issued: December 10, 2021
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board